IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.90 OF 2006

Laxmi Venilal Sevak ...Applicant
Vs.
Surjit Kaur wd/o Gurdev Singh & Ors. ...Respondents

WITH

CIVIL REVISION APPLICATION NO.91 OF 2006

Surjit Kaur wd/o Gurdev Singh & Ors. ...Applicants
Vs.
Ujagar Singh Bhagwan Singh
(since deceased) through
Mr Amrik Singh s/o Ujagarsingh & Ors. ...Respondents

Shri Y.S. Jahagirdar for the Applicants in both Applications.

Shri V.A. Thorat, Sr. Advocate with Mr Vaibhav Sugdave for the Respondent Nos.4(b)(c) and (d) in both the Applications.

CORAM : A. M. KHANWILKAR, J.

DATE : JUNE 20, 2006.

P.C:

1. Heard counsel appearing for the parties. Perused the relevant documents. In my opinion, there is no infirmity either in the findings recorded by the court below or the conclusion reached in deciding the points in issue.

2. The court below has referred to evidence which has been brought on record by the plaintiff to accept the case of the plaintiff that at the relevant time,

plaintiff was in possession of the suit premises. To establish this fact, the plaintiff has not only examined himself but also Government Officials including Rationing Officer and Secretary of the Building as well as the developer who are independent witnesses. The Trial Court has analysed the efficacy of this evidence in detail and has answered the same by well considered judgment. I see no reason to depart from the finding so recorded.

3. To get over this position counsel for the applicant would rely on document Exhibit 23 which purportedly is written by the plaintiff No.2 addressed to the defendant No.2 dated 31st March, 1986. The contents of this letter would indicate that possession of the suit premises was voluntarily returned to the defendant No.2A by the plaintiff No.2. However, this document is of no help to the applicants. The Trial Court has recorded cogent reasons for discarding this evidence produced by the defendants. The opinion recorded in that behalf is a possible view. The court below has rightly observed that original document has not been produced. Besides, documents which were sent to the hand-writing expert by the defendant for his opinion with regard to signature occurring on Exhibit 23 have not been produced either by the defendants or

by the witness-P.W.2 who was examined before the Court. No specific ground has been taken before this court that documents were duly produced. Counsel for the applicants relied on Exhibit 49 to contend that the admitted documents were produced on record. However, Exhibit 49 only makes reference to the list of photographs.

4. The opinion recorded by the Trial Court with regard to Exhibit 23 as mentioned earlier, is a possible view. If the said opinion is to be accepted as it is, it necessarily follows that the case made out by the defendants-applicants herein that they were in possession of the disputed premises at the relevant time will have to be rejected. Taking overall view of the matter, it is not a case for interference in revisional jurisdiction having regard to well considered view taken by the learned trial Judge. Hence, dismissed.

5. At this stage, counsel for the applicants prays that parties be directed to maintain status-quo with regard to the disputed premises for a period of four weeks. This request is opposed by the respondents-plaintiffs. However, in my opinion, the request is reasonable one and will have to be

accepted. Accordingly, parties are directed to maintain status-quo with regard to the suit premises on condition that the applicants will file affidavit of undertaking before this court that possession of the premises will be made over to the respondents-plaintiffs in case no further protection is granted by the Apex Court in the proposed appeal.

6. Both the revision applications are disposed of by this common order as counsel appearing for the Appellant in companion application adopted the submissions made by the counsel for the applicants in the Civil Revision Application No.91 of 2006.

JUDGE